

**Maine Revised Statutes**  
**Title 35-A: PUBLIC UTILITIES**  
**Chapter 19: THE MAINE ENERGY COST REDUCTION ACT**

**§1904. ENERGY COST REDUCTION CONTRACTS; PHYSICAL ENERGY STORAGE CONTRACTS**

The commission in consultation with the Public Advocate and the Governor's Energy Office may execute an energy cost reduction contract or a physical energy storage contract, or both, in accordance with this section. In no event may the commission execute energy cost reduction contracts for the transmission of greater than a cumulative total of 200,000,000 cubic feet of natural gas per day. In no event may the commission execute physical energy storage contracts for a total amount that exceeds \$25,000,000 annually, and in no event may the total amount of all contracts entered into under this section exceed \$75,000,000 annually. [ 2015, c. 445, §5 (AMD). ]

**1. Prior to executing an energy cost reduction contract.** Before executing an energy cost reduction contract, the commission shall:

A. Pursue, in appropriate regional and federal forums, market and rule changes that will reduce the basis differential for gas coming into New England and increase the efficiency with which gas brought into New England and Maine is transmitted, distributed and used. If the commission concludes that those market or rule changes will, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost reduction contract, the commission may not execute an energy cost reduction contract; [ 2015, c. 329, Pt. E, §1 (AMD). ]

B. Explore all reasonable opportunities for private participation in securing additional gas pipeline capacity that would achieve the objectives in subsection 2. If the commission concludes that private transactions, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost reduction contract, the commission may not execute an energy cost reduction contract; and [ 2015, c. 329, Pt. E, §1 (AMD). ]

C. In consultation with the Public Advocate and the Governor's Energy Office, hire a consultant with expertise in natural gas markets to make recommendations regarding the execution of an energy cost reduction contract. The commission shall consider those recommendations as part of an adjudicatory proceeding under subsection 2. [ 2013, c. 369, Pt. B, §1 (NEW). ]

[ 2015, c. 329, Pt. E, §1 (AMD). ]

**1-A. Prior to executing a physical energy storage contract.** Before executing a physical energy storage contract, the commission shall:

A. Pursue, in appropriate regional and federal forums, market and rule changes that will reduce the reliability risk faced by off-system natural gas users or on-system consumers and will provide a physical hedge to higher priced on-peak, winter period natural gas supplies. If the commission concludes that those market or rule changes will, within the same time frame, achieve substantially the same cost reduction effects for the State's electricity and gas customers as the execution of a physical energy storage contract, the commission may not execute a physical energy storage contract; and [ 2015, c. 445, §5 (NEW). ]

B. Explore all reasonable opportunities for private participation that would achieve the objectives in subsection 2-A. If the commission concludes that private transactions, within the same time frame, achieve substantially the same cost reduction effects for the State's electricity and gas customers as the execution of a physical energy storage contract, the commission may not execute a physical energy storage contract. [ 2015, c. 445, §5 (NEW). ]

[ 2015, c. 445, §5 (NEW) . ]

**2. Commission determination of benefits for an energy cost reduction contract.** After satisfying the requirements of subsection 1, the commission may execute or direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to execute an energy cost reduction contract if the commission has determined, in an adjudicatory proceeding, that the agreement is commercially reasonable and in the public interest and that the contract is reasonably likely to:

A. Materially enhance natural gas transmission capacity into the State or into the ISO-NE region and that additional capacity will be economically beneficial to electricity consumers, natural gas consumers or both in the State and that the overall costs of the energy cost reduction contract are outweighed by its benefits to electricity consumers, natural gas consumers or both in the State; and [ 2015, c. 445, §5 (AMD) . ]

B. Enhance electrical and natural gas reliability in the State. [ 2013, c. 369, Pt. B, §1 (NEW) . ]

[ 2015, c. 445, §5 (AMD) . ]

**2-A. Commission determination of benefits for a physical energy storage contract.** After satisfying the requirements of subsection 1-A, the commission may execute or direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to execute a physical energy storage contract if the commission has determined, in an adjudicatory proceeding, that the physical energy storage contract is commercially reasonable and in the public interest and that the contract is reasonably likely to:

A. Materially enhance liquefied natural gas storage capacity in the State or the ISO-NE region and ensure that additional physical energy storage capacity will be economically beneficial to electricity consumers, natural gas consumers or both in the State and that the overall costs of the contract are outweighed by its benefits to electricity consumers, natural gas consumers or both in the State; [ 2015, c. 445, §5 (NEW) . ]

B. Provide the opportunity for access to lower cost natural gas at times of regional peak demand for natural gas supplies or in the event of upstream natural gas infrastructure disruption; and [ 2015, c. 445, §5 (NEW) . ]

C. Enhance electrical and natural gas reliability in the State. [ 2015, c. 445, §5 (NEW) . ]

[ 2015, c. 445, §5 (NEW) . ]

**3. Parties to an energy cost reduction contract or a physical energy storage contract.** The commission may execute, or direct to be executed, an energy cost reduction contract or a physical energy storage contract, or both, that contain the following provisions.

A. The commission may direct one or more transmission and distribution utilities, gas utilities or natural gas pipeline utilities to be a counterparty to an energy cost reduction contract or a physical energy storage contract, or both. In determining whether and to what extent to direct a utility to be a counterparty to one or more contracts under this subsection, the commission shall consider the anticipated reduction in the price of gas or electricity or a reduction in the on-peak winter period price of gas or electricity, as applicable, accruing to the customers of the utility as a result of one or more contracts as determined by the commission in an adjudicatory proceeding.

Any economic loss, including but not limited to any effects on the cost of capital resulting from an energy cost reduction contract or a physical energy storage contract for a transmission and distribution utility, a gas utility or a natural gas pipeline utility, is deemed to be prudent and the commission shall allow full recovery through the utility's rates. [2015, c. 445, §5 (AMD).]

B. If the commission concludes that an energy cost reduction contract or a physical energy storage contract can be achieved with the participation of other entities, the commission may contract jointly with other entities, including other state agencies and instrumentalities, governments in other states and nations, utilities and generators. [2015, c. 445, §5 (AMD).]

C. The commission may execute an energy cost reduction contract or a physical energy storage contract as a principal and counterparty. [2015, c. 445, §5 (AMD).]

[ 2015, c. 445, §5 (AMD) .]

**4. Approval by the Governor.** The commission may not execute or direct the execution of an energy cost reduction contract or a physical energy storage contract unless the Governor has in writing approved the execution of the energy cost reduction contract or a physical energy storage contract.

[ 2015, c. 445, §5 (AMD) .]

#### SECTION HISTORY

2013, c. 369, Pt. B, §1 (NEW). 2015, c. 329, Pt. E, §1 (AMD). 2015, c. 445, §5 (AMD).

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